

### **REMARKS**

The Examiner has rejected all claims under 35 U.S.C. §103(a) as being unpatentable over Maggioncalda (U.S. Patent No. 6,012,044) in view of Horowitz (U.S. Patent No. 6,349,290), and further in view of Basch (U.S. Patent No. 6,658,393). Applicant respectfully requests that the Examiner reconsider these rejections in view of the following Remarks.

As described in the specification, the claimed invention relates to an improved system and method for trading financial instruments such as securities, as well as fractional portions of traded instruments, and more particularly to a system and method which applies trade-approval rules to a proposed trade so that the customer's proposed trade can be approved without manual intervention (see e.g., page 14, line 1 through page 15, line 19; Figure 2), which provides anonymous customer-to-customer trading (see e.g., page 15, line 20 through page 18, line 8; Figure 3), and which permits aggregated trading among anonymous customers with common investment goals (see e.g., page 18, line 9 through page 20, line 15; Figure 4).

One of the problems associated with the current securities market relates to longstanding securities industry regulations which require that the firm through which the trade is made ensure that the customer's investing activity is suitable for that customer based upon the customer's financial situation and investing expertise. Traditionally, these regulations have been met by intermediate brokers by manually reviewing and approving each trade prior to settlement. As far as Applicant is aware, this approach continues today with known Internet-based trading systems, such as those made available by E\*Trade, Charles Schwab and

Fidelity, with back office staff reviewing each order and manually approving same. Such manual review and approval increases the costs associated with securities trading.

Claims 1, 33 and 54 of the present invention are concerned with solving this problem.

More specifically, Claims 1 and 33 each require, among other elements: (i) a customer rules database having a set of customer risk assessment rules stored thereon, (ii) receiving customer information from a customer and assigning a customer risk rating to the customer based upon the received customer information and the set of customer risk assessment rules, (iii) a trade rules database accessible having a set of trade risk assessment rules stored thereon, (iv) receiving trade details from a customer for a proposed trade and assigning a trade risk rating to the proposed trade based upon the received trade details and the set of trade risk assessment rules, and (v) automatically approving the proposed trade if the customer risk rating and the trade risk rating bear a predetermined relationship to one another.

Claim 54 similarly requires, among other elements: (i) a customer rules database having a set of customer risk assessment rules stored thereon, (ii) receiving customer information from a customer and assigning a customer risk rating to the customer based upon the received customer information and the set of customer risk assessment rules, (iii) receiving trade details from a customer for a proposed trade and automatically approving the proposed trade if the customer risk rating is below a risk threshold for the proposed trade.

Neither Maggioncalda nor Horowitz nor Basch discloses, teaches or suggests at least the above-highlighted elements. Both Maggioncalda and Horowitz disclose systems which provide advice to a user thereof. Maggioncalda discloses that some of the dispensed advice may comprise recommended securities, the particular recommended securities being partly based upon a desired level of risk specified by the user. Similarly, Horowitz discloses that some of the advice may comprise recommended goods or services (perhaps including securities) which are appropriate for the user. Basch discloses a system which predicts accounts and/or account holders who are at risk for credit default and/or fraud to protect the account issuer (i.e., the credit card company) from loss. However, neither Maggioncalda nor Horowitz nor Basch discloses, teaches or suggests that a risk rating assigned to the user be compared with a risk rating assigned to a proposed trade and/or that the proposed trade be automatically approved if the customer risk rating and the proposed trade risk bear a predetermined relationship. As such, neither Maggioncalda nor Horowitz nor Basch address the problem solved by Claims 1, 33 and 54 of the present invention (i.e., providing a securities trading system which reduces the time and costs associated with executing securities trades, and which automates required reviewing and approving processes for each trade prior to settlement).

Rather, both Maggioncalda and Horowitz give trade/investment recommendations based upon the customer's desires and the customer's stated risk preference. In fact, in Maggioncalda, risk tolerance is a specific input that can be varied by the customer. With respect to Basch, this reference is concerned with protecting a credit issuer from default and/or fraud by the account holder, not with determining whether a proposed securities trade is suitable for the trading

party's situation. The present invention, in contrast, automates the decision as to whether a specific trade desired by the customer is suitable (i.e., has the correct riskiness) for the customer based on the customer's concrete investment goals and financial status, not necessarily the customer's desire. Suitability is much more subtle and complex than the pure asset allocation questions addressed by Maggioncalda and Horowitz, or the "bad credit risk" determination made by Basch.

This "suitability checking" process also obviates the problem of trades having to be cancelled or reversed due to their being found unsuitable after the trade has been executed. In illiquid markets, such as the bond markets, trade reversals are very expensive, so brokers want to avoid suitability errors as much as possible.

Another problem associated with the current securities market relates to the fact that, traditionally, the securities markets have not been hospitable to individual investors for a number of reasons which are set forth in the Background section of the present application. However, while it has recognized that as a group, individual investors have an enormous asset base, trading by individual investors is fragmented among relatively tiny pools of money, resulting in small trades of \$5,000 to \$10,000.

Claims 9 and 38 of the present invention are concerned with solving the problems faced by small individual investors by facilitating "team-based" trading which capitalizes on the large asset base of individual investors as a group.

More specifically, each of Claims 9 and 38 require, among other elements, (i) allowing the formation of a team comprising a plurality of team members (ii)

enabling team members to determine a quantity of a financial instrument to be purchased in a single trade by the team, (iii) obtaining a financial commitment from each of the team members, (iv) automatically purchasing in a single trade the quantity of the financial instrument, the quantity having a total cost which is no greater than the sum of the obtained financial commitments, (v) charging an account of each of the team members in an amount up to each team member's respective financial commitment, and (vi) crediting the account of each of the team members with a share of ownership proportionate to the amount charged to each team member's account of the quantity of the financial instrument purchased.

Neither Maggioncalda nor Horowitz nor Basch discloses, teaches or suggests at least the above-highlighted elements. Indeed, neither Maggioncalda nor Horowitz nor Basch discloses, teaches or suggests in any way whatsoever any type of "team-based" trading. As such, neither Maggioncalda nor Horowitz nor Basch address the problem solved by Claims 9 and 38 of the present invention (i.e., providing a way to capitalize on the large asset base of individual investors as a group).

Another problem with the current securities markets is that there is currently no vehicle by which securities holders may readily trade securities, or fractional shares thereof, directly with one another. Buyers and sellers must, therefore, use an intermediate broker and incur the high fees and costs associated therewith, which fees and costs can be prohibitive, particularly when relatively small transactions are involved. Furthermore, as there is no central exchange for bonds, it may be difficult for a buyer who is seeking to purchase a specific bond to locate a seller who is selling that specific bond. This is particularly true when only a small

number of bonds, or a fractional share of a bond, are at issue. Thus, the bond market is an illiquid market in that even if an investor is able to purchase a small number of bonds, or a fractional share of a bond, that investor may not readily sell such bonds if cash is quickly needed or desired. Ownership of bonds, therefore, has not been regarded as an attractive alternative to cash-on-hand for the individual investor.

Claims 20 and 45 of the present invention are concerned with solving these problems by facilitating "customer-to-customer" trading.

More specifically, each of Claims 20 and 45 require, among other elements, (i) receiving an indication from a seller that the seller desires to sell a financial instrument and an indication from a buyer that the buyer desires to purchase the financial instrument; (ii) notifying the buyer and the seller of a proposed trade and allowing for negotiation between the buyer and the seller; (iii) determining a fair market value of the financial instrument, and transmitting the fair market value to the buyer and the seller, (iv) receiving a buyer trade ticket from the buyer and a seller trade ticket from the seller and determining whether the terms of the buyer trade ticket match the terms of the seller trade ticket; (v) determining, if the terms of the buyer trade ticket match the terms of the seller trade ticket, whether the terms of the proposed trade are fair, and (vi) automatically executing the trade if the terms are fair.

Neither Maggioncalda nor Horowitz nor Basch discloses, teaches or suggests at least the above-highlighted elements. Indeed, neither Maggioncalda nor Horowitz nor Basch discloses, teaches or suggests in any way whatsoever any

type of “customer-to-customer” trading. As such, neither Maggioncalda nor Horowitz nor Basch address the problem solved by Claims 20 and 45 of the present invention (i.e., providing a securities trading system which encourages trading and direct ownership of bonds by individual investors, providing a vehicle by which bond holders may readily trade bonds, or fractional shares of bonds, directly with one another, and facilitating the pairing of a buyer who is seeking to purchase a specific bond with a seller who is selling that specific bond).

Claims 1-58 also stand rejected under 35 U.S.C. 112, second paragraph, “for failing to point out with sufficient clarity and distinctly claim what Applicant regards is the invention over the existing and prior art.” Applicant still does not understand which parts of which claims are unclear, and the Examiner has still not pointed to any unclear claim language. The Examiner has required further “discussion” of the “thresholding mechanisms”, but it appears that the Examiner is asking Applicant to supplement the Specification. Applicant respectfully requests that the Examiner clarify if this is the case. Or is the Examiner asking Applicant to further narrow the Claims? Or is the Examiner stating that one or more claim terms is unclear, and if so, which ones?

It should also be noted that the “thresholding and relationships between the customer risk rating and trade risk” are only required by independent Claims 1, 33 and 54. The Examiner has not even hinted at any rationale behind the 35 U.S.C. 112 rejections with respect to independent Claims 9, 20, 38 and/or 45.

For the foregoing reasons, Applicant respectfully submits that all pending claims, namely Claims 1-58, are patentable over the references of record, and earnestly solicits allowance of the same.

Respectfully submitted,



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